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P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

Paper 90

Filed 14 December 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PAUL J. CARTER AND LEONARD G. PRESTA
Junior Party
(Patent 6,639,055),

v.

JOHN ROBERT ADAIR, DILJEET SINGH ATHWAL,
AND JOHN SPENCER EMTAGE
Senior Party
(Application No. 11/284,260),

Patent Interference No. 105,762
(Technology Center 1600)

Before RICHARD TORCZON, SALLY GARDNER LANE, and SALLY MEDLEY,
Administrative Patent Judges.

LANE, *Administrative Patent Judge.*

Judgment– Merits – Bd. R. 127

The Carter motion for judgment on the basis that the single involved Adair claim is barred under 35 U.S.C. § 135(b) was granted. (Paper 89). Because Adair no longer has an interfering claim that is not barred under 35 U.S.C. §135(b) it is appropriate to

enter judgment against Adair. *Berman v. Housey*, 291 F.3d 1345, 1351 (Fed. Cir. 2002).

It is

ORDERED that judgment on priority as to Count 2 (Paper 1 (Declaration) at 4 and Paper 18 (Redeclaration at 1-2)), the sole count of the interference, is entered against senior party Adair;

FURTHER ORDERED that claim 26 of Adair application 11/284,260, which claim corresponds to Count 1 (Paper 1 at 4), is FINALLY REFUSED, 35 U.S.C. §135(a):

FURTHER ORDERED that if there is a settlement agreement, the parties are directed to 35 U.S.C. 135(c) and Bd. R. 205; and

FURTHER ORDERED that a copy of this judgment shall be entered into the administrative record of the Carter involved patent and application and the Adair involved application.

cc (via electronic):

Attorney for Carter:
Oliver R. Ashe, Jr., Esq.
ASHE, P.C.
11440 Isaac Newton Square North
Suite 210
Reston, VA 20190
Email: oashe@ashepc.com

Jeffrey P. Kushan, Esq.
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Email: jkushan@sidley.com

Attorney for Adair:
Doreen Yatko Trujillo, Esq.
Michael B. Fein, Esq.
COZEN O'CONNOR P.C.
1900 Market Street
Philadelphia, PA 19103
Email: dtrujillo@cozen.com
Email: mfein@cozen.com